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Attorneys for Plaintiff
VINCENT KHOURY TYLOR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

VINCENT KHOURY TYLOR,)	CIVIL NO. <u>17-00293</u>
)	(Copyright Infringement)
Plaintiff,)	
)	COMPLAINT FOR COPYRIGHT
vs.)	INFRINGEMENTS AND DIGITAL
)	MILLENNIUM COPYRIGHT ACT
REALVOICE LLC, a Tennessee)	VIOLATIONS; EXHIBITS "A"- "C"
Limited Liability Company, dba)	
REALVOICE; JOHN DOES 1-10;)	
JANE DOES 1-10; DOE)	
CORPORATIONS 1-10; DOE)	
PARTNERSHIPS 1-10; and DOE)	
ASSOCIATIONS 1-10,)	
)	
Defendants.)	
_____)	

**COMPLAINT FOR COPYRIGHT INFRINGEMENTS
AND DIGITAL MILLENNIUM COPYRIGHT ACT VIOLATIONS**

COMES NOW Plaintiff VINCENT KHOURY TYLOR, by his
attorneys, J. Stephen Street, Attorney at Law, and Dane Anderson, Attorney at
Law, LLC, and for his complaint alleges as follows:

PARTIES

1. Plaintiff VINCENT KHOURY TYLOR (“Plaintiff”) is a resident of the State of Hawaii.
2. Upon information and belief, Defendant REALVOICE LLC (“RealVoice”) is a Tennessee limited liability company with its principal place of business in Memphis, Tennessee, and is doing business in the State of Hawaii under trade name REALVOICE, registered in the State of Hawaii.
3. JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, and DOE ASSOCIATIONS 1-10 are named herein under fictitious names for the reason that, after investigation of the facts of this action, said Defendants’ true names and identities are presently unknown to Plaintiff except, upon information and belief, that they are connected in some manner with the named Defendant and/or were the agents, servants, employees, employers, representatives, co-venturers, associates, successors or assignees of the named Defendant who may be under a duty, contractually or otherwise, to pay Plaintiff compensation for loss incurred by the

actions or omissions of the named Defendant and/or were in some manner related to the named Defendant and that their “true names, identities, capacity, activities and/or responsibilities” are presently unknown to Plaintiff or his attorneys. To ascertain the full names and identities of JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, and DOE ASSOCIATIONS 1-10, Plaintiff’s counsel have investigated the facts alleged herein through, *inter alia*, interview of Plaintiff and inspection of the records in this matter. When the true names and capacities are ascertained, through appropriate discovery, Plaintiff shall move to amend this action to state the true names.

JURISDICTION AND VENUE

4. This is an action for preliminary and permanent injunctive relief and damages arising from RealVoice’s copyright infringements in violation of the United States Copyright Act, 17 U.S.C. §§ 101 *et seq.* and violations of the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 1202.

5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1331 and § 1338(a).

6. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(a).

FACTUAL ALLEGATIONS

7. RealVoice manages and controls a commercial website, at <http://www.hawaiianbeachrentals.com>, where customers can view information on its business and the Hawaii-based vacation rentals it offers to customers.

8. RealVoice's commercial website described in paragraph 7, at <http://www.hawaiianbeachrentals.com/about-us.php>, states: "The company has grown to provide information on thousands of rentals in the State of Hawaii. A commitment to providing first class service to Travelers and Vendors alike has allowed the company to develop into the largest site for Travelers looking to plan a unique Hawaiian vacation. Destination Experts that live and work in the areas Travelers are looking to rent has proven to be a winning formula." Thus, RealVoice knowingly, systematically, and continuously transacts business and enter into contracts on an ongoing basis with and/or provides products or services to individuals or businesses in Hawaii and/or to individuals or businesses intending to travel to or conduct business in Hawaii.

9. RealVoice manages and controls a commercial web page on social media website <https://www.facebook.com> ("Facebook"), at <https://www.facebook.com/hawaiianbeachrentals>, titled "Hawaiian Beach Rentals," to advertise and promote its business and vacation rentals, and to encourage users of that Facebook commercial web page to navigate to, or click on provided hyperlinks to be directly routed to the commercial website, described in

paragraph 7, which is linked to the Facebook page. RealVoice's commercial page on Facebook has over 26,000 "like" clicks by users and over 25,000 "followers."

10. RealVoice manages and controls a commercial web page on social media website <https://www.pinterest.com> ("Pinterest"), at <https://www.pinterest.com/hawaiianrentals/>, titled "Hawaiian Beach Rentals," to advertise and promote its business and vacation rentals, and to encourage users of that Pinterest commercial web page to navigate to, or click on provided hyperlinks to be directly routed to the commercial website, described in paragraph 7, which is linked to the Pinterest page. RealVoice's commercial page on Pinterest has over 2,400 "followers."

11. RealVoice manages and controls a commercial web page on social media website <https://www.instagram.com> ("Instagram"), at <https://www.instagram.com/hawaiianbeachrentals/>, titled "hawaiianbeachrentals," to advertise and promote its business and vacation rentals, and to encourage users of that Instagram commercial web page to navigate to, or click on provided hyperlinks to be directly routed to the commercial website, described in paragraph 7, which is linked to the Instagram page. RealVoice's commercial page on Instagram has over 1,400 "followers."

12. RealVoice manages and controls a commercial web page on social media website <https://plus.google.com> ("Google+"), at

<https://plus.google.com/+Hawaiianbeachrentals>, titled “Hawaiian Beach Rentals,” to advertise and promote its business and vacation rentals, and to encourage users of that Google+ commercial web page to navigate to, or click on provided hyperlinks to be directly routed to the commercial website, described in paragraph 7, which is linked to the Google+ page. RealVoice’s commercial page on Google+ has over 4,700 “followers.”

13. Each photographic work at issue in this case is an original work entitled to copyright protection pursuant to the copyright laws of the United States, and each photographic work at issue is duly registered with the United States Copyright Office.

14. The seven (7) photographic works, image nos.: “A-19 Snorkel Hawaii”; “O-01 Waikiki-Pink boat ORIGINAL VERSION”; “A-20 Surfer at Twilight”; “A-01 Hammock NEW”; “B-18 Green Beach”; “A-12-B LaniKai-girl”; and, “B-07 Akaka Falls Hor”, at issue in this case were created by Plaintiff, a professional photographer, who owns the copyrights to those works. The copyrights for those photographic works were registered with the United States Copyright Office as 1) VA 1-696-555, effective December 17, 2009, and supplemented by form VA 1-432-741, effective June 20, 2011; and, 2) VA 1-759-562, effective January 29, 2011, in the name of Plaintiff, who has exclusive rights and privileges in those photographic works under the United States Copyright Act.

True and correct copies of the Certificates of Registration that relate to those photographic works are attached hereto as Exhibit “A.”

15. Three (3) photographic works, image nos. “Oahu Beachs01”; “Venice Falls, Maui-1”; and, “Awapuhi Trail”, at issue in this case were created by photographer Vincent Scott Tylor, who has assigned by written assignment ownership of all rights, title, and interest in the copyrights to those respective photographic works at issue to Plaintiff. The copyrights for those photographic works at issue were registered with the United States Copyright Office as 1) VA 1-761-524, effective February 8, 2011; and, 2) VA 1-892-225, effective November 7, 2013. Plaintiff is awaiting the certificate of registration VA 1-892-225 for photographic work “Awapuhi Trail.” True and correct copies of the Certificate of Registration and filed Application that relate to those photographic works are attached hereto as Exhibit “B.”

16. None of the said photographic works was a “work for hire.”

17. Substantial time and expense was incurred in creating the photographic works at issue, and Plaintiff licenses those photographic works for commercial and other uses.

18. RealVoice used the ten (10) photographic works at issue, without obtaining licenses or consent from Plaintiff, for its commercial purposes

on its commercial Facebook, Pinterest, Instagram, and Google+ pages, the pages described in paragraphs 9 through 12, as follows:

Image **“A-19 Snorkel Hawaii”** was used at:

Page URLs:

<https://www.facebook.com/hawaiianbeachrentals>

<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1411474898887233/?type=3> (Posted January 17, 2017)

<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1411474898887233/?type=3&theater>

<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1130795616955164/?type=3> (Posted March 8, 2016)

<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1130795616955164/?type=3&theater>

<https://www.pinterest.com/hawaiianrentals/>

<https://www.pinterest.com/hawaiianrentals/pins>

<https://www.pinterest.com/pin/511369732668792380/>

Image URLs:

https://scontent-sjc2-1.xx.fbcdn.net/v/t1.0-9/16002739_1411474898887233_6435496492549949596_n.jpg?oh=da91ab0528e055bbea40cb38c45fe29&oe=5946288A (426 x 756 pixels)

https://scontent-sjc2-1.xx.fbcdn.net/v/t1.0-9/12801370_1130795616955164_6701186924682216275_n.jpg?oh=28014f9db0f4bc7114ffdcdf83a82094&oe=59092B1F (426 x 756 pixels)

<https://s-media-cache-ak0.pinimg.com/564x/ab/40/a8/ab40a8648b08a412005a86a70dd4b650.jpg> (426 x 756 pixels)

Image **“O-01 Waikiki-Pink boat ORIGINAL VERSION”** was used at:

Page URLs:

<https://www.facebook.com/hawaiianbeachrentals>

Image **“A-20 Surfer at Twilight”** was used at:

Page URLs:

<https://www.facebook.com/hawaiianbeachrentals>
<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1209810399053685/?type=3>
<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1209810399053685/?type=3&theater>

Image URL:

https://scontent-sjc2-1.xx.fbcdn.net/v/t1.0-9/13501813_1209810399053685_423702215688514461_n.jpg?oh=37c6bb59271f203f6b69fe88aaceec20&oe=59446708 (510 x 382 pixels)

Image “**A-01 Hammock NEW**” was used at:

Page URLs:

<https://www.facebook.com/hawaiianbeachrentals>
<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1187274751307250/?type=3>
<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1187274751307250/?type=3&theater>

<https://www.pinterest.com/hawaiianrentals/>
<https://www.pinterest.com/hawaiianrentals/pins>
<https://www.pinterest.com/pin/511369732669315029/>

<https://www.instagram.com/hawaiianbeachrentals/>
https://www.instagram.com/p/BB-_AJJgIrB/?taken-by=hawaiianbeachrentals

Image URLs:

https://scontent-sjc2-1.xx.fbcdn.net/v/t1.0-9/13238931_1187274751307250_3820028083121349724_n.jpg?oh=4454630006c7f3f7c2b103f50509d214&oe=593F9DEB (691 x 387 pixels)
<https://s-media-cache-ak0.pinimg.com/564x/a7/51/32/a75132cbae304aa87769de15e3665cc9.jpg> (340 x 510 pixels)

Image “**B-18 Green Beach**” was used at:

Page URLs:

<https://www.pinterest.com/hawaiianrentals/>
<https://www.pinterest.com/hawaiianrentals/pins>
<https://www.pinterest.com/pin/511369732658561430/>

Image URL:

<https://s-media-cache-ak0.pinimg.com/474x/2a/d1/8b/2ad18bbdd07cb10d4188202bfe4b718e.jpg> (474 x 355 pixels)

Image “**A-12-B LaniKai-girl**” was used at:

Page URLs:

<https://plus.google.com/+Hawaiianbeachrentals> (Linked to commercial website)
<https://plus.google.com/photos/photo/115780970194981616516/5772336930933222786?icm=false>

Image URL:

<https://lh3.googleusercontent.com/-tP41yL33Q-U/UBt12wQkrYI/AAAAAAAAAWQ/14tKeOgc8U8/w1060-h796-p/lanikai-beach-oahu-hawaii.jpg> (1060 x 796 pixels)

Image “**B-07 Akaka Falls Hor**” was used at:

Page URLs:

<https://plus.google.com/+Hawaiianbeachrentals>
<https://plus.google.com/photos/photo/112506812485022880010/5714160899974687890?icm=false>

Image URL:

https://lh3.googleusercontent.com/--P8ZWYIUOcW/T0zHEEhq7JI/AAAAAAAAAGDc/JP-6fC_M4qY/w1024-h768-p/Akaka+Falls.jpg (1024 x 768 pixels)

Image “**Oahu Beachs01**” was used at:

Page URLs:

<https://www.facebook.com/hawaiianbeachrentals>
<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1203622689672456/?type=3>

<https://www.facebook.com/hawaiianbeachrentals/photos/a.109290165772386.8801.109285182439551/1203622689672456/?type=3&theater>

Image URL:

https://scontent-sjc2-1.xx.fbcdn.net/v/t1.0-9/13407113_1203622689672456_2050088891378013735_n.jpg?oh=c080e4836da42b5ec9f7997af8b21320&oe=594BD999 (687 x 390 pixels)

Image “**Venice Falls, Maui-1**” was used at:

Page URLs:

<https://www.instagram.com/hawaiianbeachrentals/>
<https://www.instagram.com/p/7qf1nkgIr-/?taken-by=hawaiianbeachrentals>

Image “**Awapuhi Trail**” was used at:

Page URLs:

<https://plus.google.com/+Hawaiianbeachrentals>
<https://plus.google.com/photos/photo/115957129757989280853/5854522531215852002?icm=false&authkey=COOnKndGk3dukiQE>

Image URL:

<https://lh3.googleusercontent.com/--m6ZK2u5Dsc/UT9xOTqkQeI/AAAAAAAAAWM/9uhTyXjvyas/w1060-h796-p/Awa%25E2%2580%2599awapuhi-Trail-Kauai%252C-Hawaii-mundo-asombroso.jpg> (1060 x 796 pixels)

RealVoice used same or substantially similar copies of these photographic works without obtaining licenses or consent from Plaintiff, thus violating his exclusive rights as the copyright owner to reproduce, adapt, display, distribute, and/or create derivative works under 17 U.S.C. §§ 101 *et seq.* True and correct copies of these photographic works at issue together with copies of screenshots representative of RealVoice’s infringing uses of these photographic works at issue are attached hereto as Exhibit “C.”

19. On February 7, 2017, Plaintiff gave notice to RealVoice of the copyright infringements described in paragraph 18, demanded that it cease and desist, and attempted to resolve the claims by requesting that it pay monetary damages for those infringements. Plaintiff did not receive a response this letter.

20. Plaintiff's seven (7) copyrighted photographic works at issue that were created by him, where they are legitimately available for commercial licensing, bear his copyright management information in the form of a "Vincent K. Tylor" signature at the bottom corner of each photographic work at issue.

21. Upon information and belief, RealVoice intentionally removed or altered Plaintiff's copyright management information from his seven (7) photographic works at issue for RealVoice's commercial uses, as described herein, without Plaintiff's authority or the authority of the law, and/or RealVoice distributed copies of its infringing uses of Plaintiff's photographic works at issue, knowing that Plaintiff's copyright management information had been removed or altered without his authority or the authority of the law and knowing that it do not own the photographic works. True and correct copies of Plaintiff's photographic works at issue containing his copyright management information along with copies

of screenshots of RealVoice's infringing uses of those works with Plaintiff's copyright management information removed are shown in Exhibit "C."

22. RealVoice's uses of Plaintiff's photographic works at issue on its commercial Facebook, Pinterest, Instagram, and Google+ pages, described herein, have contributed to widespread distribution of those infringing uses. Copies of the uses at issue, when posted, were automatically distributed to the "followers" of those pages for viewing and further distribution by those followers. Furthermore, users on Facebook, Pinterest, and Google+ could easily distribute those infringements among other users by clicking on "Like," "Share," and/or "Send" buttons associated with those uses as they appeared on RealVoice's commercial pages. Each "Like" or "share" action by a user caused those infringements to be distributed to other users and served to advertise RealVoice's business among other users. As shown in Exhibit "C," attached hereto, RealVoice's infringements at issue received numerous "like", "comment" and/or "share" actions by users, resulting in the infringements being widely distributed across social media and causing substantial damage to Plaintiff's copyrights.

**FIRST CAUSE OF ACTION:
COPYRIGHT INFRINGEMENTS**

23. Plaintiff restates and realleges each of the allegations contained in paragraphs 1-22 as if fully stated herein.

24. Plaintiff has all rights, title, and interest in the copyrights to the photographic works at issue as holder and owner of the copyrights, the use of which has not been licensed to RealVoice.

25. RealVoice has misappropriated Plaintiff's copyrighted photographic works at issue with knowledge that the photographic works do not belong to RealVoice and that it did not have license or consent from Plaintiff; RealVoice thereby engaged in unauthorized use, copying, distribution, and/or display of Plaintiff's copyrighted photographic works by using a total of ten (10) of Plaintiff's photographic works on its commercial Facebook, Pinterest, Instagram, and/or Google+ pages, described herein, without obtaining licenses or consent from Plaintiff. RealVoice's acts constitute copyright infringement under the United States Copyright Act, 17 U.S.C. §§ 101 *et seq.* for which it is directly, contributorily, and/or vicariously liable, jointly, severally or in the alternative.

26. RealVoice's unlawful use of copies of Plaintiff's photographic works have diminished the value of the original photographic works by distributing and encouraging redistribution of those copies without identifying the photographic works as being the exclusive property of Plaintiff.

27. RealVoice's unlawful acts have been and are interfering with and undermining Plaintiff's ability to market Plaintiff's own original photographic

works, thereby impairing the value and prejudicing the sale or license by Plaintiff of his own photographic works.

28. Because RealVoice used Plaintiff's copyrighted photographic works without license or consent, infringing the exclusive rights of Plaintiff as the copyright owner, Plaintiff is entitled to have the infringing publications and any improperly acquired likenesses or images (however stored or recorded) impounded while this action is pending.

29. As a direct and proximate result of RealVoice's wrongful acts, Plaintiff has suffered and continues to suffer lost profits and damages.

30. Plaintiff is entitled to recover from RealVoice the damages he has sustained as a result of these wrongful acts. Plaintiff is presently unable to ascertain the full extent of the monetary damages he has suffered by reason of RealVoice's acts of copyright infringement.

31. Plaintiff is further entitled to recover from RealVoice any gains, profits, or advantages RealVoice obtained as a result of its wrongful acts. Plaintiff is presently unable to ascertain the full extent of the gains, profits, and advantages RealVoice has realized by its acts of copyright infringement.

32. Plaintiff is entitled to elect to recover from RealVoice statutory damages for each of its violations of Plaintiff's copyrights.

33. Plaintiff is further entitled to costs and reasonable attorneys' fees.

**SECOND CAUSE OF ACTION:
DIGITAL MILLENNIUM COPYRIGHT ACT VIOLATIONS**

34. Plaintiff restates and realleges each of the allegations contained in paragraphs 1-33 as if fully stated herein.

35. RealVoice intentionally removed or altered copyright management information from association with the seven (7) photographic works at issue created and owned by Plaintiff for RealVoice's said uses, and/or distributed copies of those photographic works at issue knowing that Plaintiff's copyright management information had been removed or altered, without the authority of Plaintiff or the law, knowing, or having reasonable grounds to know, that the removal or alteration, and/or distribution, would induce, enable, facilitate, or conceal infringement of copyright.

36. RealVoice's acts constitute violations under the Digital Millennium Copyright Act, 17 U.S.C. § 1202, for which it is liable jointly, severally, or in the alternative.

37. Plaintiff is entitled to a preliminary and permanent injunction to prevent RealVoice from engaging in further violations of 17 U.S.C. § 1202.

38. Plaintiff is entitled to recover from RealVoice the actual damages suffered by him and any profits RealVoice has obtained as a result of its wrongful acts that are not taken into account in computing the actual damages. Plaintiff is currently unable to ascertain the full extent of the profits RealVoice has realized by its violations of 17 U.S.C. § 1202.

39. Plaintiff is entitled to elect to recover from RealVoice statutory damages for each of its violations of 17 U.S.C. § 1202.

40. Plaintiff is further entitled to costs and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff VINCENT KHOURY TYLOR prays:

A. That this Court enter an injunction preliminarily and permanently enjoining and restraining RealVoice and its directors, officers, managers, members, agents, servants, employees, attorneys, and all persons in active concert or participation with RealVoice from infringing Plaintiff's copyrighted photographic works and from further violating 17 U.S.C. § 1202;

B. That the Court order any original infringing photographs, prints, separations, publications, copies, products, or materials bearing the

photographic works at issue, digital data in any form and/or likenesses impounded and/or destroyed or disposed of in other reasonable fashion;

C. That RealVoice be required to pay such damages as Plaintiff has sustained and any profits RealVoice has gained in consequence of RealVoice's unlawful acts or, in the alternative, to pay statutory damages pursuant to 17 U.S.C. § 504(c) and 17 U.S.C. § 1203(c);

D. That RealVoice be required to pay costs, including reasonable attorneys' fees, to Plaintiff pursuant to 17 U.S.C. § 505 and 17 U.S.C. § 1203(b); and,

E. That Plaintiff be granted such other and further relief as the Court may deem just and proper.

DATED: Honolulu, Hawaii, June 16, 2017.

/s/ J. Stephen Street
J. STEPHEN STREET
DANE ANDERSON
Attorneys for Plaintiff
VINCENT KHOURY TYLOR